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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,903	01/25/2002	Craig Krueger	110769-00104	7192

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EXAMINER

CHANDLER, SARA M

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/054,903

Applicant(s)

KRUEGER ET AL.

Examiner

Sara Chandler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/16/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it exceeds 150 words.

Correction is required. See MPEP § 608.01(b).

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are illegible and rudimentary. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show any reference numerals associated with the invention as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed

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invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 recites the limitation "the time stamp". There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "wherein the wireless participant can cause a local site live event." This limitation is indefinite because the fact that a participant "can

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cause" or is "capable of causing" a result does not mean that the participant is required to do so. Thus, it has not been given patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaen, US Pub. No. 2001/0034691 in view of Do, US Pub. No. 2002/0007338..

Re Claims 1 and 10: Kaen discloses a system for providing real time tracking of live events occurring at a local site and live events of wireless participants, the system comprising:

a local management server communicating with the wireless device in real time, the local management server receiving the local site live events and transmitting information regarding the local site live events to the wireless device and for receiving information regarding the wireless participant live events (Kaen, [0007] [0008] [0013] [0014] [0024]).

Kaen fails to explicitly disclose:

a wireless device for each wireless participant, said wireless device recognizing voice commands and generating a live event for the wireless participant in response to a received voice command.

Do discloses:

a wireless device for each wireless participant, said wireless device recognizing voice commands and generating a live event for the wireless participant in response to a received voice command (Do, [0045] [0069] [0081]).

Intended Use: The claims make several intended use statements (i.e., "a system for"; "a wireless device for"; "generating a live event for"). What follows the statement of intended use (i.e., "for") does not carry patentable weight. The claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kaen by adopting the teachings of Do to provide a system further comprising a wireless device for each wireless participant, said wireless device recognizing voice commands and generating a live event for the wireless participant in response to a received voice command. As suggested by Do, one would have been motivated to bring together multiple buyers by taking advantage of new communication and computer technologies.

Re Claim 2 Kaen discloses wherein the local management server is located at the local site (Kaen, [0022] "processing system located at an auction house." This could occur if the camera feed is of the live auction on site).

Re Claim 3: Kaen discloses wherein the local management server is located remote from the local site (Kaen, Fig. 1; the local management server is separate from the auction host).

Re Claims 4-5: Kaen fails to explicitly disclose wherein the wireless participants are located at the local site or are located remote from the local site. Official Notice is taken that it was old and well-known at the time the invention was made that wireless devices were capable of performing the same functions as hard wired devices. These devices are designed to provide users with the advantage of accessing the network from a variety of different locations. It therefore would have been obvious that the users of a wireless device could feasibly be anywhere in which their device receives the network, which would include any place remote from the site, or the physical site itself. The user would simply sit at the physical auction and use the wireless device as if they were at a remote location.

Re Claim 6: Kaen discloses wherein the local site comprises a live auction (Kaen, [0007]).

Re Claim 7: Kaen fails to explicitly disclose wherein the time stamp further associates a time with the local site live events. Do discloses wherein the time stamp further associates a time with the local site live events (Do, [0077] Do discloses a time stamp with relation to the time of a bid placed in an auction, which is the local site live event).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Kaen by adopting the teachings of Do to provide wherein the time stamp further associates a time with the local site live events. One would have been motivated to allow the auctioneer to better track the bidding process and provide more information to the users in the archive proceedings that Kaen discloses (Kaen, [0033]. If a time stamp is submitted with each bid, the users accessing the archive can have a more complete version of the bidding history that can help settle possible disputes over a particular auction.

Re Claim 8: Kaen discloses wherein said local management server transmitting the received wireless participant live events to the local site (Kaen, [0032]. The user is able to transmit a bid in real time to the auctioneer (local site).).

Re Claim 9: Kaen discloses wherein the local site live events comprise wireless participants live events (Kaen, [0032]. This means that if a participant submits the high bid to the local site, the live event will show this as the high bid (i.e., the live events at the local site will be comprised of the wireless participant live events.).

Re Claim 11: Kaen further discloses a system comprising a wireless device having touch tone, digital key depression or voice command recognition, wherein the wireless participant can cause a local site live event through touch tone, digital key depression or voice command of said wireless device (Kaen, [0031], Kaen discloses a user interactive mechanism that allows a bidder to participate in the live auction. Submission of a bid will cause a local site live event, such as a change in the high bid).

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Re Claim 12: Kaen discloses wherein the local management server receives wireless participant live events as touch tone, digital key depression or voice command (Kaen, [0032]. If a bid can be transmitted from a user to the local site then it would be inherent that the local management server receives the wireless participant live events, in any form and transmits it to the local site.)

Conclusion

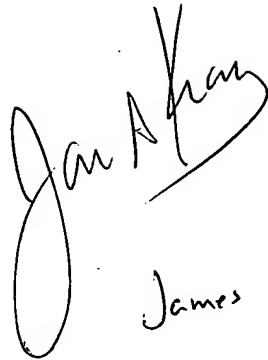
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Chandler whose telephone number is 571-272-1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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SMC


James Kramer